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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,568	03/01/2004	John Baekelmans	50325-0851	3101
29989	7590	06/14/2005	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			ROBBINS, JANET L	
2055 GATEWAY PLACE			ART UNIT	
SUITE 550			PAPER NUMBER	
SAN JOSE, CA 95110			2857	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,568

Applicant(s)

BAEKELMANS ET AL.

Examiner

Janet Robbins

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 14-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to process for generating commands, classified in class 702, subclass 123.
 - II. Claims 14-19, drawn to process for executing commands, classified in class 702, subclass 189.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as executing predetermined test command sets, whereas invention I has separate utility such as constructing a command set for execution by another device. See MPEP § 806.05(d).

1. During a telephone conversation with Stoycho Draganoss (Reg. No. 56,181) on May 24, 2005 a provisional election was made without traverse to prosecute the invention of process for generating commands, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-19 are withdrawn

from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. (US Patent 6,633,833) in view of Dorchak (US Patent 5,161,110).

With respect to claims 1, 10, 11, 12, and 13 Sharma et al. teaches an apparatus for automated data collection and analysis comprising:

a network interface (Fig. 2: 150) that is coupled (Fig. 2: 155) to a data network (Fig. 2: 250) for receiving one or more packet flows therefrom (col 7, ln 45-51);

a processor (col 4, ln 20-26);

one or more stored sequences of instructions (col 4, ln 22) which, when executed by the processor cause the processor to carry out the steps of:

receiving a request for information about a device (col 2, ln 61-62; col 3, ln 16-18; col 9, ln 7-8, ln 50-53; col 10, ln 4-5);

constructing a command set, wherein the command set is a set of executable commands that indicate collection of data from the device and zero or more other devices (col 3, ln 3-7, ln 14-16; col 9, ln 28-31; col 10, ln 6-10);

sending the command set to the device (col 3, ln 15-17; col 10, ln 8-10);
receiving analysis results from an analysis engine, wherein the analysis results are based at least in part on a set of results received from the device and produced by executing the command set (col 3, ln 20-23; col 10, ln 11-14); and

Sharma et al. does not teach determining a set of solutions based on the analysis results. Dorchak teaches using a problem-solving artificial intelligence tool (col 5, ln 43-53) to provide possible solutions (col 5, ln 57-59) based on data analysis performed on incoming data (col 6, ln 12-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sharma et al. to include the solutions provided by Dorchak because providing artificial intelligence to diagnose problems and provide possible solutions saves money and time on training and maintaining personnel, and immediate action may be taken to correct certain faulty situations, reducing machine down time (Dorchak: col 2, ln 51-56).

With respect to claim 2, Dorchak further teaches the command set comprising one or more commands to collect data from two or more devices simultaneously (col 2, ln 24-25). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sharma et al. to include simultaneously collecting data from two or more devices as done by Dorchak because real-time processing reduces the possibility of equipment downtime, and personnel can be alerted if their attention is required.

With respect to claim 3, Sharma et al. further teaches the command set comprising a first command to collect data from the device at a first time, and a second

command to collect data from the device at a second time, wherein the first time is different from the second time (col 5, ln 16-23).

With respect to claim 4, Sharma et al. further teaches the step of producing the analysis results based on a result set, where the result set is based at least in part on the execution of the command set (col 3, ln 20-25; col 10, ln 11-14).

With respect to claim 6, Dorchak further teaches the step of providing the set of solutions to a user (Fig. 4: 172; col 6, ln 31-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sharma et al. to include providing the set of solutions to the user as taught by Dorchak because the user would then be alerted in the case that a situation arose which necessitated action by the user or other personnel.

With respect to claim 7, Dorchak further teaches choosing one or more commands from a list of predefined commands (col 5, ln 56-59). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sharma et al. to include the list of predefined commands as set forth by Dorchak because the set of commands causes the program to run more quickly and smoothly using less processing power.

With respect to claim 8, Dorchak further teaches choosing one or more commands from a list of predefined commands comprising choosing one or more commands based at least in part on the request for information about the device (col 6, ln 15-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sharma et al. to include basing the commands

chosen on the request for information as taught by Dorchak because the diagnosis would become more targeted on the information sought, thus making processing more efficient.

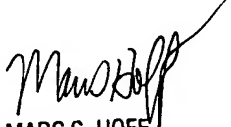
With respect to claim 9, Dorchak further teaches defining new commands based on the request for information about the device (col 5, ln 42-53; col 6, ln 12-24). His invention includes an artificial intelligence inference engine which inherently defines new commands when requests are received. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sharma et al. to include defining new commands as done by Dorchak because artificial intelligence allows a wider range of solutions to be found from a more comprehensive analysis of the system.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. (US Patent 6,633,833), in view of Dorchak (US Patent 5,161,110), and further in view of Brown et al. (US PGPub US2003/0009465 A1). As noted above, Sharma et al. and Dorchak teach the method of parent claim 4 and the presence of a result set, but do not teach removing confidential information. Brown et al. teaches removing confidential information from data sent to a server from client computers (page 3, paragraph 0037). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Sharma et al. and Dorchak to remove confidential information, as taught by Brown et al., in order to increase the level of security provided for personal or confidential information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet Robbins whose telephone number is 571-272-8584. The examiner can normally be reached on weekdays from 7:30am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

JLR
06/06/05


MARC S. HOFF
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